

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of S.C.P., Adoptee.

CARRIE LYNN WILCOX,

Petitioner-Appellee,

v

DWIGHT EDWIN PARKER,

Respondent-Appellant.

UNPUBLISHED

May 13, 2003

No. 244819

St. Joseph Circuit Court

Family Division

LC No. 02-001002-AD

Before: Saad, P.J., and Meter and Owens, JJ.

MEMORANDUM.

In this stepparent adoption case, respondent appeals as of right from the trial court's order terminating his parental rights to the minor child under MCL 710.51(6). We affirm.

Respondent challenges the trial court's findings under MCL 710.51(6)(b), which considers the sufficiency of a parent's attempts to visit, contact, and communicate with the minor child. A trial court may find that, although a parent's contacts were insufficient, the parent did not have the ability to contact the minor child because the other parent resisted the parent's attempted contacts. *In re ALZ*, 247 Mich App 264, 274; 636 NW2d 284 (2001). In the instant matter, however, there was conflicting evidence as to whether petitioner and her husband interfered with respondent's efforts to contact the minor child. The trial court was in a superior position to weigh the evidence and evaluate the credibility of the witnesses. *In re BKD*, 246 Mich App 212, 220; 631 NW2d 353 (2001). Giving due deference to the trial court's assessment of credibility, we are not left with a definite and firm conviction that the trial court's findings regarding MCL 710.51(6)(b) were clearly erroneous. *In re Hill*, 221 Mich App 683, 691-692; 562 NW2d 254 (1997).

Respondent also contends that the trial court erred in finding that he had the ability to support or assist in supporting his child within the meaning of MCL 710.51(6)(a). We note that respondent's counsel argued that the "only issue" for the trial court to decide was whether respondent attempted to communicate with the minor child. Respondent's counsel specifically stated that "[w]e concede the support issue." As such, the record does not support respondent's claim that he only made factual concessions. Moreover, because of respondent's concessions, neither party introduced facts pertaining to this issue. Thus, the record does not contain

sufficient facts for us to conclude that the trial court's findings regarding MCL 710.51(6)(a) were clearly erroneous.¹ *Hill, supra* at 691-691.

Affirmed.

/s/ Henry William Saad

/s/ Patrick M. Meter

/s/ Donald S. Owens

¹ In addition, it is well established that “error requiring reversal cannot be an error that the aggrieved party contributed to by plan or negligence.” *Farm Credit Services, PCA v Weldon*, 232 Mich App 662, 684; 591 NW2d 438 (1998).